

WR Grace

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Subject FYI - WR Grace from BNA

Enforcement Appeals Court Refuses Grace Petition For Rehearing of Case Involving Asbestos

SPOKANE, Wash.--The U.S. Court of Appeals for the Ninth Circuit Court Dec. 5 denied a petition by W.R. Grace and Co. for a rehearing by the full, 15-member panel of judges regarding a "knowing endangerment" charge levied by the federal government (*United States v. W.R. Grace*, 9th Cir., No. 06-30472, *rehearing denied* 12/5/07).

The judges rejected the Maryland-based company's request that the full court reconsider a Sept. 20 ruling by a three-member panel reinstating the "knowing endangerment" charge, which Montana District Judge Donald Molloy had dismissed.

The ruling means that the company and six current and former executives will stand trial for knowing endangerment as well as conspiracy, obstruction of justice, and violating the Clean Air Act in connection with illnesses and deaths allegedly caused by asbestos contained in vermiculite mined and processed at the company's Libby, Mont., mine and mill.

Grace operated the facility from 1963 to 1990. In 1999, the Environmental Protection Agency began cleanup of asbestos at the mine/mill site and throughout Libby, in northwest Montana, under the federal superfund law (184 DEN A-7, 9/24/07 ^{12:00}).

The decision clears the way for the government to pursue the knowing endangerment charge, but a trial in the U.S. District Court for the District of Montana awaits a related en banc hearing on pretrial witness issues, which the Ninth Circuit agreed Oct. 29 to conduct (210 DEN A-8, 10/31/07 ^{12:00}).

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